



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.240 of 2017

in

C.M.P. (MD) No.2684 of 2017

KTC

Now it is

Tamil Nadu State Transport Corporation,
Vannarpettai,
Tirunelveli-3.

... Appellant/2nd Respondent

Vs.

1.Perumalammal

... 1st Respondent/Petitioner

2.Magapoop John

... 2nd Respondent/1st Respondent

(2nd Respondent is the driver
of the appellant and that notice
may be dispensed with)

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No. 187/2008, dated 19.04.2012 on the file of the Motor Accident Claims Tribunal/II Additional District Court, Thoothukudi.

For Appellant	: Mr.P.Prabhakaran
For R1	: Mr.R.J.Karthick
For R2	: Dispense with vide in EB

* * * *

JUDGMENT

Being aggrieved over the award passed by the Motor Accident Claims Tribunal/II Additional District Court, Thoothukudi in M.C.O.P.No.187 of 2008, the Transport Corporation has filed the present appeal.

2.The appellant Transport Corporation is the second respondent, the first respondent the claimant in MCOP.No.187 of 2008 and the second respondent is the driver of the bus belonging to the appellant. The first respondent/claimant filed the claim petition in MCOP.No.187 of 2008 claiming a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation for the injuries sustained by her in the accident that occurred on 29.11.1996. By



the award, dated 19.04.2012, the Tribunal awarded a sum of Rs.99,000/- (Rupees Ninety Nine Thousand only) as compensation.

3.Facts of the Case:-

According to the first respondent, on 29.11.1996 at 15.00 hours, the bus bearing Registration No.TCB-8132 was coming from Tuticorin driven by the driver of the bus in a rash and negligent manner in a high speed without following the Traffic Rules and dashed against the first respondent/claimant, when the driver of the bus reversed the bus from east to west and dashed against the first respondent and caused accident. Due to the said impact, the first respondent/claimant sustained multiple injuries and she was admitted in the Government Hospital, Tuticorin from 29.11.1996 to 21.04.1997 for more than 5 months. The first respondent was a minor and was studying 6th standard. Due to the injuries, she suffered severe pain and even now, she is suffering severe pain. Therefore, the first respondent/claimant claimed a sum of Rs.20,00,000/- as compensation for the injuries sustained by her in the accident.

4.The appellant filed the counter statement and denied the averments made in the claim petition and stated that the second respondent/the driver of the bus drove the bus slowly and cautiously and reversed the bus carefully. At that time, the first respondent/claimant tried to get into the moving bus for reserving the seat for her mother and lost her grip and fell down. At that time, the other passengers pushed her down and she dashed against the mudguard and suffered injuries. The second respondent was not responsible for the accident. Only due to the negligence of the first respondent/claimant, the accident had occurred and prayed for dismissal of the claim petition.

5.Before the Tribunal, the first respondent examined himself as P.W.1 and one Doctor Kavitha was examined as P.W.2 and another doctor Mr.Ramaguru was examined as P.W.3 and marked 6 documents as Ex.A1 to A6. The appellant examined one Mahapoop John/the driver of the bus as R.W.1 and did not mark any documents.

6.The Tribunal, considering the pleadings, oral and documentary evidence, came to the conclusion that the accident occurred only due to the rash and negligent driving by the first respondent and considering the nature of the injuries, awarded a sum of Rs.99,000/- (Rupees Ninetynine Thousand only) as compensation to the first respondent/claimant in different heads.

7.Agrieved against the said award, the appellant-Transport Corporation has filed the present appeal.

8.The learned Counsel appearing for the appellant and the learned counsel appearing for the first respondent and also perused all the materials available on record.

9. From the materials available on record, it is seen that the Ex.P1-FIR has been registered against the second respondent. Even though, the second respondent has stated in his evidence that the complaint was closed and he was not prosecuted and he has not produced any document to substantiate his claim. The Tribunal considering Ex.P.1-FIR held that the accident occurred only due to the negligence of the second respondent and he is responsible for the accident. The said finding is confirmed.

10. As far as quantum of compensation is concerned, the P.W.2 Doctor has deposed that the first respondent suffered 35% of partial permanent disability. The Tribunal taking into consideration the evidence of P.W.2 Doctor and Exhibits with regard to nature of injuries and percentage of disability, awarded a just compensation. The compensation awarded in respect of various heads are not excessive. It is only based on the documents produced by respondent. The appellant has not made out any case for modifying the award of the Tribunal by reducing the compensation.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 19.04.2012 is confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.187 of 2008, on the file of the Motor Accident Claims Tribunal-cum-II Additional District Court, Thoothukudi, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the award amount to the Personal Savings Bank Account Number of the first respondent/claimant, after getting her Account Details, within a period of two weeks thereafter. No costs. Consequently, connected civil miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal-cum-II Additional District Court, Thoothukudi,

+1cc to M/s.P.PRABHAKARAN Advocate in SR. No.17264

+1cc to M/s.R.J.KARTHICK Advocate in SR. No.17497

AM/MPN

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